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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

MERCY MONTOYA SALAS,
Plaintiff,
v.
ANDREW M. SAUL, Commissioner
of Social Security,¹
Defendant.

Case No. CV 18-10414 JVS (AS)
**ORDER ACCEPTING FINDINGS,
CONCLUSIONS, AND
RECOMMENDATIONS OF UNITED
STATES MAGISTRATE JUDGE**

Pursuant to 28 U.S.C. § 636, the Court has reviewed the Complaint, all the records herein, and the attached Report and Recommendation of United States Magistrate Judge. After having made a de novo determination of the portions of the Report and Recommendation to which Objections were directed, the Court concurs with and accepts the findings and conclusions of the Magistrate

¹ Andrew M. Saul, Commissioner of Social Security, is substituted for his predecessor. See 42 U.S.C. § 405(g); Fed. R. Civ. P. 25(d).

1 Judge. However, the Court addresses certain arguments raised in
2 the Objections below.

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4 Plaintiff, who is proceeding pro se, contends that she is "not
5 mentally stable" and has "become more unstable since 2001." (Dkt.
6 No. 22 ("Objections") at 2, 3).² She asserts that her "ability to
7 work is false and inaccurate." (Id. at 3). Plaintiff also contends
8 that due to "increased pain," she cannot walk, bend, or "function
9 as so you say." (Id. at 4). She does not, however, identify any
10 specific errors in the Report and Recommendation. (Id. at 1-6).
11 Instead, Plaintiff attaches over 120 pages of medical records to
12 her Objections, apparently in support of her contention that she
13 is incapable of fulltime work. (Id. at 7-130).

14
15 The records submitted by Plaintiff are not material. The
16 Court may remand a matter to the Commissioner if there is new
17 evidence which is "material" to a determination of disability and
18 Plaintiff shows "good cause" for having failed to produce that
19 evidence earlier. 42 U.S.C. § 405(g). To be material, the new
20 evidence must bear "directly and substantially on the matter" at
21 issue, and there must be a "reasonable possibility that the new
22 evidence would have changed the outcome of the administrative
23 hearing." Mayes v. Massanari, 276 F.3d 453, 462 (9th Cir. 2001).

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27 ² The Court cites to the Objections and its exhibits as if
28 they were consecutively paginated.

1 Here, however, all of the records submitted with Plaintiff's
2 Objections postdate the ALJ's March 2018 decision by over one year.
3 (Objections at 7-130). As the Magistrate Judge admonished
4 Plaintiff in the Report and Recommendation, "[w]hile these records
5 may be relevant to a new SSI application, they are not material to
6 whether Plaintiff was disabled at any time between April 14, 2015,
7 the SSI application date, through March 28, 2018, the date of the
8 ALJ's decision. (R&R at 32) (emphasis added); see Sanchez v. Sec'y
9 of Health & Human Servs., 812 F.2d 509, 512 (9th Cir. 1987) ("The
10 new evidence indicates, at most, mental deterioration after the
11 hearing, which would be material to a new application, but not
12 probative of his condition at the hearing."); Kimbrough v. Shalala,
13 39 F.3d 1187 (9th Cir. 1994) ("The new evidence indicates only the
14 status of Kimbrough's medical condition [after the relevant time
15 period], and as such, it is irrelevant."). Thus, because the
16 medical records submitted by Plaintiff with her Objections are not
17 material, no remand is required.

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1 **IT IS ORDERED** that Judgment shall be entered affirming the
2 decision of the Commissioner and dismissing this action with
3 prejudice.

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5 **IT IS FURTHER ORDERED** that the Clerk serve copies of this
6 Order and the Judgment herein on Plaintiff and counsel for
7 Defendant.

8
9 **LET JUDGMENT BE ENTERED ACCORDINGLY.**

10 DATED: October 15, 2019



JAMES V. SELNA
UNITED STATES DISTRICT JUDGE